

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

COMMITTEE ON GOVERNMENT, MILITARY AND VETERANS AFFAIRS
March 2, 2005
LB 602, 657, 684, 701

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, March 2, 2005, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 602, LB 657, LB 684, and LB 701. Senators present: DiAnna Schimek, Chairperson; Pam Brown, Vice Chairperson; Carroll Burling; Deb Fischer; Chris Langemeier; Mick Mines; Rich Pahls; and Roger Wehrbein. Senators absent: None.

SENATOR SCHIMEK: Good afternoon, ladies and gentlemen, and welcome to the hearings of the Government, Military and Veterans Affairs Committee. We're happy to have you with us this afternoon. We do have four bills to hear, and we are going to take them in the order in which they were posted on the door, beginning with LB 605, LB 657, LB 684, and LB 701. You see how impartial we are; we put them in numerical order, so that's the order. The process here is to have the introducer speak and then to call for proponents, and then opponents of the bill, and then those who might be here in a neutral capacity. If you have prepared testimony and would like it or any other exhibit distributed to the Legislature, we can do that. We can also make copies for you if you need copies made. We do have sign-in sheets, and they look like this. They are at the table over there. We'd ask that you complete them and put them in the tray when you come to testify. And we would also ask that when you testify, you start by giving us your name and spelling your name for us, particularly if it's a last name that's difficult. You don't have to spell Jim or Bob or Bill; maybe Abbie because Abbie is spelled several different ways. And Abbie, you probably don't have to, because the transcribers probably know that. If you have a cell phone, would you please turn it off at this time, and I'd also like to mention that our page is Victoria Centorino and she is going to be going in and out all day long, and here she comes, and we're happy to have her page for us, as well. So with that we will open the hearings on LB 602, Abbie. Senator Cornett.

LB 602

SENATOR CORNETT: Good afternoon, Senator Schimek and members of the committee. My name is Abbie Cornett, and

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 602
and Veterans Affairs
March 2, 2005
Page 2

that's A-b-b-i-e C-o-r-n-e-t-t, and I represent the 45th Legislative District. I was requested by Senator Paul Hartnett to introduce LB 602 for the organization called the Gold Star Wives. This bill, as written, would allow for spouses of veterans to be appointed to the Veterans Cemetery Advisory Board. It doesn't change how the people would be appointed to this board. There's kind of a funny story for the amendment that's being offered today. There seems to have been a miscommunication. Paul was going to originally introduce the bill for the Gold Star Wives and ran out of time last year. So I promised him I would introduce the bill, and I got a copy of the bill, as written, from Bill Stadtwald, and it wasn't what the Gold Star Wives wanted. We had to amend it a little bit.

SENATOR SCHIMEK: It happens; it does.

SENATOR CORNETT: It does. I'm offering the amendment to the committee today which would allow a spouse, widow, or widower to be appointed to the Veterans Advisory Commission. Again, this would not change in any way how people would be appointed to the commission. There are several representatives today from the Gold Star Wives who will testify as to why they feel that they should be allowed on these committees. And with that, I'll turn the testimony over to them.

SENATOR SCHIMEK: Thank you, Senator Cornett. Before I ask for questions, I just realized that for the first time ever I didn't introduce myself or the committee, so I will do that before we take questions, all right?

SENATOR CORNETT: That's fine. Does anybody have any questions before...

SENATOR SCHIMEK: Right. I'm going to start with Senator Rich Pahls from Millard/Omaha area; next to him is Senator Carroll Burling from Kenesaw; next to him is Senator Pam Brown from Omaha, and she is the Vice Chair of the committee; to my right is the legal counsel for the committee, Christy Abraham; I'm DiAnna Schimek from Lincoln, I chair the committee; Sherry Shaffer on my left is the committee clerk; next to her is Senator Roger Wehrbein of Plattsmouth; Senator Mick Mines of Blair, Nebraska; Senator

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 602
and Veterans Affairs
March 2, 2005
Page 3

Chris Langemeier of Schuyler; and Senator Deb Fischer of Valentine rounds up the committee. So are there any question of Senator Cornett? Seeing none, thank you very much for being with us today. I don't think you ever have been before.

SENATOR CORNETT: No, first time.

SENATOR SCHIMEK: Okay. Are there proponents of the bill? If so, would you please come forward? Welcome.

PAULA MUTH: (Exhibits 1 and 2) Thank you. My name is Paula Muth, P-a-u-l-a M-u-t-h. And this isn't going to cost you any money. There are four other ladies here with me today: Jan Ryan, who is first lady of Bellevue, wife of Mayor Jerry Ryan, who is a veteran; Martha Didamo is a widow and the national president of Gold Star Wives of America; Liz Trowbridge-Davis and Mary Elizabeth Bezy are widows of veterans, and Mrs. Bezy is also a veteran from World War II. We would like to be eligible to serve on boards such as the Nebraska Veterans Cemetery Advisory Board and the Veterans Advisory Commission. We have a great interest in most things to do with veterans and their survivors, mainly the survivors. I'm the widow of an Air Force officer who died while on active duty in 1973. For the past 32 years I have actively worked with the Gold Star Wives of America, which is a federally chartered organization of military widows. I served as national president and chairman of the board. In the past year, I was appointed to the Military Officers Association of America Auxiliary Advisory Committee. This committee reports to the National Board of MOAA to help them improve their service to the survivors of their former members. Gold Star Wives has had members who have served on the Department of Veterans Affairs National Cemetery Systems Advisory Committee. These are examples of the many committed women working to make things better for our veterans and their families. The following words, taken from Abraham Lincoln's Second Inaugural Address, reflect the philosophy and principles that guide VA in everything they do and are the focus of their endeavors to serve our nation's veterans and their families. His quote: To care for him who shall have borne the battle and for his widow and his orphan. I feel that the spouses and survivors of military personnel can be a valuable resource to the

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 602, 657
and Veterans Affairs
March 2, 2005
Page 4

Nebraska Veterans Cemetery Advisory Board and the Veterans Advisory Commission. Thank you for allowing me to speak on behalf of all military survivors and spouses.

SENATOR SCHIMEK: Thank you very much, Ms. Muth. Are there questions? Any questions? Thank you very much for being with us today. We appreciate it.

PAULA MUTH: Thank you.

SENATOR SCHIMEK: (Exhibit 3) Next proponent. Are there other proponents who wish to testify in favor of the bill? Seeing none, are there opponents? Any who wish to testify in opposition? Any in a neutral capacity? Seeing none, Senator Cornett waives closing, and that will conclude the hearing on LB 602. And actually before I close the hearing, I'm reminded that there is an e-mail letter from Bill Williams from Buffalo County, regarding this very issue. And so we will enter that into the record. He is opposed to allowing nonveterans to serve. I believe everybody on the committee has this. Thank you. We have called Senator Preister. We didn't quite expect that bill to go quite so fast, so he should be here momentarily.

AT EASE

SENATOR SCHIMEK: (Recorder malfunction)...as soon as we could have, Senator Preister, because we didn't know that first bill was going to go quite so fast.

LB 657

SENATOR PREISTER: Senator Schimek, I'm glad it went quickly, and I was nearby. Senator Schimek, members of the Government Committee, my name is Don Preister, P-r-e-i-s-t-e-r. I'm here today as the primary introducer of LB 657. The purposes of this bill are twofold: They are to limit outsourcing of contractual services by the state, and to provide for a thorough preprocess for each proposed contract for service over \$50,000 entered into by a state agency. The goal of the first provision regarding outsourcing is to support workers in Nebraska and in the United States. If the work is to be contracted outside of

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 5

state government, then the state should make every effort to keep the dollars in the state of Nebraska, or at a minimum, within our nation, so that our government can realize the tax revenues from salaries that are paid, as well as other direct economic benefits to businesses by contractors working locally. The second goal to this bill is a continuation of what we began with the passage of LB 626 two years ago. At that time, one of my priorities to be included in a bill was a written preprocess that would have to be undertaken on any contract for service entered into. LB 657 would implement this goal. The purpose is to assure that it is, in fact, less costly to contract out the service rather than to perform it with state employees. My goal, as always, has been to get the most out of tax dollars and to be good financial managers of the money we appropriate to state agencies to implement programs and services. The bill would require the Materiel Division to establish guidelines for agencies to use in conducting a written analysis of the service needed. And there are some specific requirements that I have in the bill. Materiel Division has 30 business days after receipt of the agency's request to notify the agency whether the proof of need has been met to contract for the proposed service. Agencies must also submit a formal plan of assistance for any employee displaced by such contract. And that last provision currently exists in statute; it's not a change. The preprocess information shall be available to the public by Web access. When we enacted LB 626, we knew then that it was just a beginning that we were undertaking to get a handle on this fastest growing portion of the state budget. This is the next logical step, to make sure that we are, in fact, spending our tax dollars wisely and making the most cost-effective choices when agencies enter into contracts. The bill has, as I stated, the two provisions. The first provision is really one that was in a bill that Senator Thompson introduced, and that, in discussing things with her rather than introducing two separate bills, it was incorporated in this one. And the other is, as Senator Schimek and Senator Wehrbein particularly know from working on the other bills collaboratively that being able to understand and have an assessment so we know whether we're saving money, spending more money, knowing exactly what we're doing as we're doing it, as good stewards of the tax money that we're entrusted with. I would just...I may or may not be here for closing,

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 6

Senator Schimek, but if the committee is interested, I would be more than willing to work with the committee. I would like to do something. If what I have here has problems or if there are concerns by committee members, I would like to work with the committee before any negative action may take place on my bill.

SENATOR SCHIMEK: Thank you, Senator Preister.

SENATOR PREISTER: You're welcome, Senator Schimek.

SENATOR SCHIMEK: Are there questions? Yes, Senator Wehrbein.

SENATOR WEHRBEIN: Can you go into detail on this? Will you explain how you see the preprocess in the words...I can read it, but the preprocess process?

SENATOR PREISTER: The preprocess is one that we've been working on for a long time, and the way it would work is that an agency would be looking at doing a contract for service. They would submit that request to DEQ, along with some of the information that needs to go along with it. And then Materiel Division would do that assessment and make the determination within that 30-day window of time that's outlined. And...

SENATOR WEHRBEIN: And what results...

SENATOR PREISTER: The basis is in Section 2...

SENATOR WEHRBEIN: Yeah, I'm there. Okay.

SENATOR PREISTER: Okay. And so they would use those...and I didn't really want the bill to be overly technical or overly complex, but I felt it was important to give some direction and to specify things. If that's too much or too little, I'm certainly open to looking at that.

SENATOR WEHRBEIN: There's really two issues in here, like you said.

SENATOR PREISTER: Right.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 7

SENATOR WEHRBEIN: And they are distinct differences?

SENATOR PREISTER: Yes.

SENATOR WEHRBEIN: That's what I was trying to get at.

SENATOR PREISTER: And the one, as I said, was...

SENATOR WEHRBEIN: One might be stickier than the other; maybe I'll say it that way.

SENATOR PREISTER: Sure.

SENATOR WEHRBEIN: Okay. That's all I have for right now. I probably better study this some more.

SENATOR SCHIMEK: Okay. Senator Mines has a question.

SENATOR MINES: Thank you, Senator. Senator, let me just follow-up on Section 2. In practice, would it be possible that contractors may not bid on jobs because...? I'm thinking of telemarketers or people that answer the phones at night. Maybe they're in India, and the contractor is a U.S. company, and the state would contract with them to provide some kind of a service. But after hours, those calls may go overseas. And with this provision, is it possible that those contractors may not bid on something like this? Am I making any sense at all?

SENATOR PREISTER: You're referring to probably the first portion...

SENATOR MINES: Yeah.

SENATOR PREISTER: ...and it is a possibility, although I'm not sure we do much telemarketing or that kind of contracting for service, although it's certainly a distinct possibility.

SENATOR MINES: Okay.

SENATOR PREISTER: My hope would be, particularly as we have this information on the Web site, that it's another avenue for getting more people to bid, rather than fewer. But

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 8

seeing information, and I think we're doing a pretty good job of advertising, so I'm not criticizing that, but it would be my hope that we could get more bids. But it is a possibility that somebody could be precluded.

SENATOR MINES: Okay. Thanks.

SENATOR PREISTER: I would think that the benefits would be offset, though, by the benefits to local business, as well as to the tax base that we have in Nebraska that would offset that.

SENATOR MINES: Okay.

SENATOR PREISTER: Would be a hope, anyway.

SENATOR MINES: Okay. No, I understand. Thank you.

SENATOR PREISTER: You're welcome. Thanks for the question.

SENATOR SCHIMEK: Seeing no further questions, I have one. Maybe I'm just wanting a response, if you have one. There was an article in the paper this morning about a contract in which it was discovered that some of the calls were going overseas, and it's a little bit, I think, like Senator Mines described--it was only a portion of them. And it's my understanding, if I read the article correctly, that those calls are coming back into the United States that we've paid off that contract, I believe, and those calls are now being transferred back to the United States, and there's several other states that are doing this type of thing, as well. So I'm wondering if an awareness isn't going on that's going to keep those kinds of contracts from happening?

SENATOR PREISTER: I think there is more of an awareness, and I think probably, even within our own agencies, there's more of an awareness after last session and last year, when there was a lot of discussion about that. So, I think that's helpful, and I hadn't read that article, so I...

SENATOR SCHIMEK: Well, that's probably because it wasn't in the Omaha World-Herald, it was in the Lincoln Journal Star.

SENATOR PREISTER: Well, that's no excuse. I could have

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 9

still read it, but thank you for the help.

SENATOR SCHIMEK: Thank you, Senator Preister. Seeing no further questions, we will take proponents of the bill.

KEN MASS: Senator Schimek and members of the committee, my name is Ken Mass, a lobbyist for the Nebraska AFL-CIO, and here today in support of LB 657. Outsourcing of jobs, as we have heard, yes, state governments are choosing to reduce their costs by outsourcing of service jobs to other countries, and yes, the article in today's paper says that some of them are coming back by probably more of a mistake; we made a mistake, let's bring it back in, and the outsource of the cry of the general public. But anyway, research has showed that outsourcing of state and local governments' technology contracts will grow from \$10 billion in 2003, to \$23 billion in 2008. This is part of a national trend. In the mid-2003 report, Gardener, Inc. predicted that at least one out of 20 technology jobs in the United States would move overseas by the end of 2004; Forrester Research predicts that at least 3.3 million white-collar jobs and a \$136 billion in wages will shift from the United States to low-wage countries by the year of 2015. Outsourcing the state services is supposedly justified by cost savings, but that ignores the real cost to the states. By shipping the jobs overseas, states increase the social service costs that accompany unemployment. Although these costs tend to be hidden, they're very real. Unemployment insurance, welfare payments, Medicare, CHIP costs, housing assistance, as well as loss of tax revenue from residents who would otherwise be employed. Outsourcing is a short-sighted tactic. Outsourcing of state services encourage a low-road race to the bottom. As corporations seek the cheapest labor cost and weakening workplace protections, more and more jobs will leave the states in a global race to the bottom. Even in India, companies are starting to move jobs from big cities to locations where wages are even lower. And in some cases, jobs are moving to India to China. States cannot stop globalization, but that doesn't mean states can help fuel the competition between their own citizens and low-paid, sometimes, exploited foreign workers. Back in 2004, President Bush signed an omnibus appropriation bill with a provision that at least temporarily prohibits the federal Departments of Transportation and the Treasury from awarding

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 10

contracts to companies that perform the work overseas. U.S. Senate in March 2004 added an amendment to corporations' tax legislation which would permanently ban federal outsourcing of services. The provisions would not apply, however, to contracts where the Commerce Department certifies that no American jobs would be lost. National security requires the services and the outsourcing ban would violate their treaty obligations. For those reasons, I am here in support of the bill, and I ask the committee's support. Any questions, please?

SENATOR SCHIMEK: Thank you, Mr. Mass. Are there questions of Ken? How would you certify that there were no jobs going to be lost? Wouldn't that be a nearly impossible task?

KEN MASS: Well, I think from the LB 657 and policing it and finding information, is the key to it, and researching where the work goes, and if there's loss of jobs--building a research file. Right now, there really isn't any proof of where it's actually going, right now, other than the outcry of the public out there. The public is being more aware of it, they're becoming more educated on the issue, and I think the main thing that came up is medical records now are being sent to India to be whatever done over there with them. And as being a male, I may not have too much problem with it, but my wife has had some medical problems and I don't think we want everybody in the world knowing the possibility of her medical problems along the way. It's a scare, it's a scare out there what is actually available, so anyway.

SENATOR SCHIMEK: Being male doesn't mean that you're not ever going to have any medical problems; you know that don't you?

KEN MASS: I am a physical fit person; I've never had that problem as of this time. (Laugh)

SENATOR SCHIMEK: Seeing no further questions, thank you being with us today.

KEN MASS: Thank you.

SENATOR SCHIMEK: Are there other proponents of the bill? Any others who wish to testify in favor? Are there

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military
and Veterans Affairs
March 2, 2005
Page 11

LB 657

opponents of the bill? Those who wish to testify in
opposition?

TIM WAGNER: Good afternoon, Madam Chairman, members of the committee. My name is Tim Wagner. I'm the Nebraska Director of Insurance, W-a-g-n-e-r, and I'm particularly concerned about provisions in Section 1 of the bill. Insurance has become, and as insurance director, insurance has become an international issue. Both in Nebraska, we have a number of companies that are owned by foreign interests--Germans, Swiss, Bermudans; we also have a number of companies in Nebraska that own foreign subsidiaries or do active business in other jurisdictions. The mission by which I am charged is to oversee the operations of these companies. As an example, we have one company that is the largest insurer in Japan; \$30 billion of assets, roughly, are in Japan. I need people to examine these entities, examine these operations, that are fluent in their local languages, that understand the currencies of those nations. And the problem that I have is, if we prohibit the contracting for services in foreign entities, I am really limited in my ability, if you will, to pursue the charges that I'm burdened with. And as a result, I can't hire examiners in Nebraska that are fluent in Japanese, fluent in German. I can try to find a company, a U.S. company that may have individuals that are fluent in those languages, but it becomes...it's really problematic for us. Worst of all would be, what would happen if we had this bill as law, and one of these companies got into a financial situation and I had to step in. Under the jurisdiction of Nebraska courts, how am I going to answer the claimants in German, in Japanese; how am I going to get those services if I can't contract with a foreign organization to get them? And with that, I just submit to you that you must be cognizant that we are in an international economy. Insurance is a major industry in our state. In fact, since 1998, we had \$77 billion of assets in the industry, and today we've got just shy of a quarter of a trillion dollars of assets in the industry, in Nebraska. So it is international in scope. I do work with international regulators. I've spoken with international regulators. I just don't see how I can perform the functions outside the U.S. that I have to perform, without the ability to contract with services, with foreign entities. And I'd be happy to answer any questions

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 12

that you have.

SENATOR SCHIMEK: Thank you, Commissioner. There is a question from Senator Brown.

TIM WAGNER: Yes.

SENATOR BROWN: I'm not sure I've ever seen you at this committee before, so it's nice to see you here. And I do know that under your tenure we have been quite responsive to the companies looking to locate in the state of Nebraska, and I appreciate that. Do you do a lot of contracting with examiners outside the state of Nebraska...companies that are based outside the state of Nebraska?

TIM WAGNER: I have. We have contracted in the past several years to conduct examinations of two, three sizeable entities. We do that on a bidding process. We do submit those contracts pursuant to the...we have some issues where we have emergency exams that we don't...that if there's some...we're kind of nonpublic with those, but there have been three exams. My goal is to have Insurance Department employees doing all examinations except when we have to go into a foreign branch, because I'm not going to have an employee that speaks those languages. We had a severe problem that was rectified by LB 85 some years ago. We were not able to attract and retain examiners. We are in the process of rebuilding that staff, and have done, I think, a good job in doing that. We will be going before the Appropriations Committee for some additional examiners, and the reason is...and these are examiners that don't cost the...these are examiners that are paid for by billings that we bill out to insurance companies, so it isn't coming out of state money. But I am working toward trying to get control of all exams by Nebraska insurance examiners, rather than having to contract with these contracting firms.

SENATOR BROWN: Are there translation firms that could work with Nebraska examiners in those instances where you're dealing with companies that (inaudible)?

TIM WAGNER: It would be probable. We do have one examination, Senator, that we have just contracted for that will require significant Japanese involvement. And

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 13

we...that firm has actually hired one accountant that is conversant in Japanese, and one support person that has Japanese as a second language. I don't know about using translations. I know that when I had to speak in foreign, in international venues, that, you know, using the little microphones and the thing, it gets pretty awkward. I don't know that it would be realistic to really envision that you could do it efficiently.

SENATOR BROWN: Is there a change that you could recommend to the language of the bill that would...?

TIM WAGNER: We certainly could work on that. There could be a carve-out. I mean, it would be possible to do that. We did that with the previous...some way to make it workable.

SENATOR BROWN: Thank you.

SENATOR SCHIMEK: Senator Mines has a question.

SENATOR MINES: Thank you. Tim, welcome to the committee.

TIM WAGNER: Thank you.

SENATOR MINES: We see plenty of you in the Banking Committee, don't we? As I was listening to your testimony, I began to think of other departments and other agencies that might be similar, in fact, to what you're talking about. And I'm wondering if you would have any idea, and I'm not trying to put you on the spot, perhaps the same things you're talking about could be said for the Department of Banking or Judiciary, for many of the other departments in government, and I can't even identify them, but do you think it's...I mean, your situation probably is not unusual in contracting with out-of-country firms, is that fair?

TIM WAGNER: I really can't opine on the others...

SENATOR MINES: Yeah.

TIM WAGNER: ...but I do know that, as regards to insurance, I would think that as regards banking and securities, hopefully, you know hopefully, because we're here to attract

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 14

jobs to Nebraska.

SENATOR MINES: Right.

TIM WAGNER: We're trying to attract these companies into Nebraska to hire people, and we can't be stifled, we can't say, well, no, we can't take you because you have a subsidiary in Swahili that we are not going to be able to examine, therefore you really can't come here.

SENATOR MINES: Okay.

TIM WAGNER: So in this case, it would be a negative rather than a positive for jobs.

SENATOR MINES: Thank you. Thank you.

SENATOR SCHIMEK: Seeing no further questions, thank you very much for being with us.

TIM WAGNER: Thank you.

SENATOR SCHIMEK: We appreciated seeing you. Are there other opponents of the bill? Good afternoon.

DICK NELSON: (Exhibit 1) Good afternoon, Senator Schimek. Members of the committee, my name is Dick Nelson, N-e-l-s-o-n. I'm director of the Department of Health and Human Services Finance and Support. I am testifying in opposition to LB 657 on behalf of the Health and Human Services System. Section 2 of LB 657 would, in essence, make the Department of Administrative Services the contracting czar for all state agencies, with the power to approve or disapprove any proposed personal service contracts of over \$50,000. The public policy issue involved is the level to which agency heads should be able to take actions they believe are necessary for the functioning of their agencies and should be held accountable for those decisions. LB 657 would remove such accountability for agency heads, and place it in the hands of DAS administrators who may be unfamiliar with the complexities of the situation or needs of the agency. The preprocess proposed by the bill requires up to an additional month, plus the time involved to assemble the preapproval

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 15

application, extending the already lengthy contract process by an additional 45 to 60 days. Also, current law already requires the agency director to document the reasons for contracting jobs that have been held by state employees. Although the current state law does protect existing employees by requiring this documentation, LB 657 proposes to go much further. It establishes a formidable, bureaucratic requirement for every nonexempt contract for services, whether it affects an existing position or not. From an administrative point of view, it is not efficient to require the preprocess for all contracts over \$50,000 that are not otherwise exempt from bidding. For example, this requirement would apply to all of the employment first contracts in the Health and Human Services agency. There are currently 12 such contracts, covering various portions of the state. The contracting process is already complex. The contracts are often different to accommodate the differing needs across the state, and the formality of LB 657 would add weeks to the contracting process and further complicate matters. An unintended consequence of LB 657 could jeopardize temporary contracts--that's temporary contracts as defined in the bill. Not only would it add preparation time to temporary contracts, but it could have the unanticipated consequence of forfeiting federal funds. Lines 15 and 16 on page 4 of the bill, require a temporary contract to have an ending date and to be nonrenewable. Frequently, time-limited federal programs will allow state agencies to have a no-cost extension in order to complete a project and use available federal funds. This provision in the bill would prevent the state from taking advantage of such extensions. The contract would have already been time-limited and nonrenewable. Thank you for the opportunity to testify, and I would be happy to respond to any questions you may have.

SENATOR SCHIMEK: Thank you, Dick. Are there questions? So you're really in here regarding Section 2.

DICK NELSON: Yes.

SENATOR SCHIMEK: Your comments didn't reflect anything about the first section at all.

DICK NELSON: I was talking about Section 2, yes.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 16

SENATOR SCHIMEK: And might I ask if Health and Human Services has entered into any or many contracts which would be covered under Section 1?

DICK NELSON: I am only aware of one contract, Senator, and that is a contract to administer our electronic benefits transfer program. The contractor did have a small subcontract for a call center.

SENATOR SCHIMEK: Right. That was the one in the paper this morning that I was referencing.

DICK NELSON: Correct. Correct. That is the only contract I am aware of--a relatively small contract.

SENATOR SCHIMEK: Okay. Seeing no further questions, we thank you very much for being with us today.

DICK NELSON: Thank you.

SENATOR SCHIMEK: Is there other opposition?

LORI MCCLURG: (Exhibit 2) Okay. Good afternoon, Senator Schimek and members of the Government Committee. My name is Lori McClurg, L-o-r-i M-c-C-l-u-r-g, and I am the director of Administrative Services. I am appearing here today in opposition of LB 657. I have two major concerns with the bill as it impacts state government. LB 657 delegates to DAS the ability to make decisions about how work should be done in other agencies. The department provides central services, like copiers and e-mail service, and I don't mind setting administrative policies. However, I do not believe DAS should be in position to dictate whether or not, for example, the Department of Roads, should enter into a contract to build an interstate or whether or not Game and Parks should enter into a contract to manage parks, if, in fact, that's what they do; I don't know. I believe it is important to defer to and to entrust those directors who are closest to their agency's needs with the ability to make those contracts in a manner governed by current statute without additional obstacles. Also, many contracts are for services that agencies do not and cannot perform. For example, we have a contract for Federal Express. This

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military
and Veterans Affairs
March 2, 2005
Page 17

LB 657

contract combines a purchasing power of all agencies into one contract, creating a discount for all agencies. It would not be possible to use state employees to provide this service, therefore a preprocess comparing it would not be necessary. We cannot become Federal Express. Telephone service is another contract that comes to mind for me. State employees cannot become a telephone company. And in my testimony, I've also listed other ones, where we know we have to sign for health insurance, life insurance, armored car service, those kinds of services. Second concern: It is not the norm for the state of Nebraska to have the work of a contract done outside the United States, but I fear there would be many unintentional consequences to this bill because the bill allows no exceptions. And let me give you a real example. In DAS, we have maintenance contracts for our IBM computers. If one of the computers went down at 2 a.m., which is usually when they go down, we would call IBM technical support. During night hours, I would imagine it is possible for our call to be answered in a European city. The bill would require us to cancel our maintenance agreement with IBM, and the consequences could be that the state of Nebraska's computing would come to a halt, which could include printing warrants, and with no way to remedy the issue. In the same vein, if it is determined that a very small percentage of the service provided is provided from outside the United States, less than 5 percent, for example, it appears the contractor is still disqualified from entering into a contract with the state of Nebraska. I would be happy to answer questions for the committee.

SENATOR SCHIMEK: Thank you, Lori. Are there questions of Ms. McClurg? I'm sure this is a big issue in other states; at least I think it is an issue in other states.

LORI MCCLURG: I do not know of any other state that has signed a complete nonforeign work done for it. I think it's reasonable to think we want our work done at the state of Nebraska, and we do do it at the state of Nebraska, in the state of Nebraska whenever we can. But I am not aware of that. Indiana just did something, but even with that, it's not a no-exceptions kind of issue, that I know of, and I'd be happy to look into state, if anybody knows of anyone.

SENATOR SCHIMEK: Well, I was just thinking of the other two

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 18

states mentioned in the article, that they were actually, I think, recalling a couple of contracts that they probably had gotten into the same kind of public examination that had taken place here. Yes, Senator Mines.

SENATOR MINES: I do have one question. Lori, you didn't mention that this would create, perhaps, probably create more work for your department.

LORI McCLURG: We filed a fiscal note on that, so we...

SENATOR MINES: And could you explain what you might have to do?

LORI McCLURG: One of the things, and you know, we've talked, we have talked, in past years, because this has been in front of this committee in past years with Senator Preister, about what he would like us to do.

SENATOR MINES: Um-hum.

LORI McCLURG: And one of them is kind of a comparison of in-house, out-house, and justification for entering into the contract. And part of it is really for us trying to understand what the Department of Roads does, and why they need to enter into the contract, and that's where we feel very uneasy. And like Game and Parks, I mean I don't even know if they enter into park management once I gave that example. That would be the hardest part for us is just getting so plugged in to what other agencies do, when, for example, John Craig already knows that...

SENATOR MINES: Okay. Fine.

LORI McCLURG: ...and should be the one held responsible for that kind of issue at Roads.

SENATOR MINES: Thanks.

SENATOR SCHIMEK: Seeing no further questions, thank you very much for being with us. We appreciate it.

LORI McCLURG: Thank you. Thanks.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 19

SENATOR SCHIMEK: Are there other opponents of the bill?

BILL MUELLER: Senator Schimek and members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Associated General Contractors, Nebraska Chapter, in opposition to LB 657. The opposition of the highway contractors is, as to Section 2 of the bill, the preprocess procedure that is being created in this. As you can imagine, there are many, many contracts issued by the Department of Roads for highway design and highway construction. It is of grave concern to the highway contractors that if this bill were to become law, you would impose another process, another procedure, that the Department of Roads presumably would have to comply with. It would, we think, not improve what we think is a good procedure now. The Department of Roads lets contracts regularly. It is a very detailed, sophisticated, formal process; we don't see the need to add another layer of administrative requirements on that. As to Section 1 of the bill, I take off my AGC highway hat, and I am not aware that our firm has a client that has a state contract, any part of which is performed outside the state of Nebraska. I do know that from talking with our business clients, who do work around the world, provisions like this are very troubling. We do live in a global economy. Companies do work around the world because that's where their customers are or they do work around the world because that's the best way that they can service the customers that they have, in our country and outside of our country. Ms. McClurg referenced a service center, a call center, that if you make a call at a certain time of the day and night, you may get a foreign country. This is happening more and more all the time, because that's how companies can best provide the services that they're selling. Again, we've actually represented a client who was an unsuccessful bidder in a state contract, and the winning bidder, we understand, was going to do some of the work outside the United States. Our issue was not where they were doing the work. We felt that we could do the work better. So I've been on that side of this issue. I don't...to me, what I think the state should look at when it's buying services, like any of us would look at, who can provide the services best and what's the best price. And if they're provided somewhere outside the United States, I think that may be how best the service can be provided. I

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657
and Veterans Affairs
March 2, 2005
Page 20

know that your committee has had preference legislation, already, this session. I think this may be the next step. Ideally, all state work would be done by Nebraska businesses in Nebraska. I think we've recognized that that's not possible. So, now, I think with this bill we're saying, all right, all work for the state should be done by Americans; should be done by companies that do the work in the United States. I think, in this global economy, that is not a good public policy. Be happy to answer any questions you may have.

SENATOR SCHIMEK: Yes, Senator Pahls.

SENATOR PAHLS: Senator Preister said that he is willing to work, you know, with anybody to make this bill. Do you see any...are we at an impasse or are you at an impasse with his ideas?

BILL MUELLER: Oh, I'm...we're always willing to meet and talk to anybody about making a bill better; absolutely.

SENATOR SCHIMEK: Bill, I suspect that your notion on this doing business with foreign countries, in essence being able to hire people in foreign countries to do the work for the state, would not be very popular in our state, if you were to test it out there amongst the public.

BILL MUELLER: Oh, I think you're right, unless people realize that companies they work for here in Lincoln may have a facility in another country, and they may very well have customers in that foreign country that contract with them and people in Lincoln or people in Nebraska are doing that work. I don't think that that's very well known. I mean, we do work in the United States for foreign countries. My guess is, we do work in the United States for foreign states. I don't know of that, but my guess is it works both ways. And we have, I mean, I know we have Lincoln businesses that have facilities around the world. I mean...

SENATOR SCHIMEK: Oh, I know that you're right, but I think there's a great deal of concern and perhaps sometimes even dismay when we learn of the kinds of conditions under which some of those workers are working in those foreign countries, which allow them, of course, to, if you'll pardon

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 657, 684
and Veterans Affairs
March 2, 2005
Page 21

the phrase, undercut companies here in the United States who hire American employees. I mean, there are some legitimate concerns out there about that. And I don't...

BILL MUELLER: There are, there are. I think that this...

SENATOR SCHIMEK: ...don't disagree that there may be times when it might be appropriate, particularly if it's kind of a service that you can't get here...

BILL MUELLER: That's right.

SENATOR SCHIMEK: ...in the United States, I don't disagree, but I don't know how you write a bill to address those kinds of exceptions.

BILL MUELLER: I don't either, I don't either.

SENATOR SCHIMEK: I don't know how you do it.

BILL MUELLER: And I found Mr. Wagner's testimony to be very interesting. It wouldn't have occurred to me that our Department of Insurance would have the needs that they do to hire people outside the United States to perform their functions. That was very informative to me.

SENATOR SCHIMEK: Well, and I think we as policy makers have to be so concerned in that if we don't write a black and white policy, then in some cases we never know what's happening out there. And it may not be something that we think is particularly desirable, so that's how you get into these bills that get introduced. Are there any other questions? Seeing none, thank you very much for being with us today. Are there other opponents of the bill? Any who wish to testify in a neutral capacity? Seeing none, that will close the hearing on LB 657. Oh, is he here? I'm sorry, sorry, I thought you said you weren't going to close. Okay, thank you, Senator Preister. I will now turn the gavel over to Senator Brown while I introduce LB 684.

LB 684

SENATOR SCHIMEK: I'm not sure there's going to be anybody

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 684
and Veterans Affairs
March 2, 2005
Page 22

left for the fourth bill today. Madam Chairman and members of the Government, Military and Veterans Affairs Committee, for the record my name is DiAnna Schimek. I represent the 27th Legislative District and I'm here to introduce LB 684. And I'm going to just give you a very brief description of the bill, first, and then if you have questions, then we can talk maybe a little bit about the history of the commission or whatever, but I'm going to make this really simple. Bob Ripley is here; he is the new Capitol Administrator, and I'm certain that he can fill you in a lot better than I can, but I'd be happy to try. This has two main provisions in it, and one is that the Speaker of the Legislature would become the Vice Chair of the Capitol Commission. And the Capitol Commission is, of course, that oversight body for the entire operation of the Capitol. The second thing that the bill provides is that we'd set up a Capitol Commission Revolving Fund, and that's so that the Capitol Administrator, with the approval of the Capitol Commission, could enter into agreements to provide additional facility-related maintenance, renovation, operational services, et cetera, which are requested by agencies who are housed in the State Capitol. The charges collected from such agencies would be placed in the fund, and then the fund would be used to pay the bills, so to speak. So, with that, it really is a pretty simple bill, but I think probably a pretty important one. And one of the things that I didn't have a chance to ask Bob Ripley before this bill was introduced today, I didn't think of it, in fact, until just during this hearing, and I don't know how important it is to get this fund established this year, but I'm guessing that he might put some importance on it. So with that, I would be happy to try and answer any questions.

SENATOR BROWN: Any questions? Senator Langemeier.

SENATOR LANGEMEIER: Thank you, Chairman. Senator Schimek, and I'm going to ask you a question; maybe you want to defer it on...

SENATOR SCHIMEK: Okay.

SENATOR LANGEMEIER: ...because I'm asking at the wrong time, but what exactly would this chairperson...what do they do?

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 684
and Veterans Affairs
March 2, 2005
Page 23

SENATOR SCHIMEK: Of the Capitol Commission?

SENATOR LANGEMEIER: Yeah; somebody new that doesn't know.

SENATOR SCHIMEK: The Capitol Commission, I'll have to go back and think a bit, has been in existence for a long time, but it's been revitalized several times in the last seven or eight years. And basically we have all three branches of government represented on the Capitol Commission--the Governor, the Chief Justice, the Speaker of the Legislature, and I think in some cases you can use somebody that you appoint, to ask to take your place, to just go to the meetings and stuff. I think the chief architect of the University of Nebraska, the head of that department, and there's some...one or two members of the public. Anyway, the chairperson is the one, of course, who presides over the meetings of that commission, and they meet, I think, maybe quarterly, but again you might want to ask Bob Ripley about that. But they are to look at things and try to plan for the Capitol, in the sense that if there are, for instance, monies that are needed for the landscaping that's going to happen once the whole renovation of the Capitol is completed, then they will try to help us figure out how much money and how it's going to be found and perhaps even discuss the landscaping plans with the Capitol architect--just things like that. It's a commission that's designed to care for the Capitol, basically; to take a deep interest in the Capitol.

SENATOR LANGEMEIER: Thank you. And with that said, would...I'm just thinking the Speaker seems to be awful busy, and funding needed to be put into this. Would it not be more sense to put the vice chair of the Appropriations Committee on instead of the Speaker?

SENATOR SCHIMEK: I think since the head of the other three branches of government are part of this, I would think that we would want it to be the Speaker, but again, it's been awhile since I've looked at the statutes. I think, that they can designate somebody to...but I may be fuzzy on that. Let's ask Bob Ripley.

SENATOR LANGEMEIER: Just curious questions, more than

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 684
and Veterans Affairs
March 2, 2005
Page 24

anything else. Thank you.

SENATOR SCHIMEK: Okay.

SENATOR BROWN: Any further questions? Senator Mines, did you have a question?

SENATOR MINES: No, it's been answered. Thanks.

SENATOR BROWN: Okay. Anything else? Thank you. Any testimony in support of LB 684?

BOB RIPLEY: Good afternoon, Senator Brown and members of the Government Affairs Committee. My name is Bob Ripley, R-i-p-l-e-y, and I serve as Capitol Administrator for the Office of the Capitol Commission, and I appear before you today to offer testimony supporting LB 684. This bill would make two small, but vital, changes to the operation of the Capitol Commission. First, providing a revolving fund, and second, providing for a vice chair of the commission, as Senator Schimek had indicated earlier. Last session, LB 439 created the Office of the Capitol Commission, and transferred certain staff and duties from DAS Building Division to the newly created commission. The staff transferred has responsibility for work orders for various work in the Capitol, such as moving offices, ongoing repairs and maintenance, and other duties. The budget assumed the commission would continue to charge for these operational services requested by agencies in the same manner as they did when they were part of DAS Building Division the year before. However, the Office of the Capitol Commission does not have revolving fund authority in which to deposit funds that are charged for this ongoing work for agencies. DAS Accounting Division has the authority to create funds, as needed, on a temporary basis, but they must ultimately be codified. LB 684 would codify a revolving fund for the commission so such operations would be able to continue. As well, LB 684 creates the position of vice chair of the commission, and places that responsibility with the Speaker of the Legislature. The Governor serves as chair of the commission. This bill would give the commission clear direction as to the leadership of the commission in the Governor's absence. This concludes my testimony. I will attempt to answer any questions you might have.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military
and Veterans Affairs
March 2, 2005
Page 25

LB 684

SENATOR BROWN: Are there any questions for Mr. Ripley? Would you like to explain about the environs of the Capitol and what constitutes the environs of the Capitol?

BOB RIPLEY: Sure. Our office is directly responsible for the ongoing care of the Capitol and the Capitol site. The environs of the Capitol is, in fact, a district designated within the city of Lincoln that has been determined to be the proper setting, if you will, for the Capitol within the larger capital city. The environs is, in fact, the district that involves the 12 city blocks that circumscribe the four blocks on which the Capitol sits, as well as the district has an intended mall radiating north, south, east, and west, on axis with the Capitol, and the district includes a city block either side of those four directional malls--in total, about 60 city blocks within the city. And there are a variety of other responsibilities with regard to the environs of the Capitol, that there is actually a Capitol Environs Commission which is a joint city/state body, apart from the Capitol Commission. There are two commissions here. The Environs Commission is joint city/state, and there are two members appointed by the Governor to serve on that body, and five by the mayor. This seven-member body, monthly, has meetings to oversee the care, preservation, and enhancement of improvements within this outlying district, apart from the four square blocks on which the Capitol sits. The Capitol Commission has responsibility for the Capitol and the Capitol site proper. And Senator Schimek described some of the members earlier. The commission is chaired by the Governor. We're proposing that the vice chair be the Speaker of the Legislature, and it's actually the court administrator, Supreme Court Administrator that sits, representing the third branch of government. In addition, the dean of the College of Architecture serves on that body, as does the director of the State Historical Society. And then there are three private citizens, one appointed by the Governor, from each of the three congressional districts that serve on the body, as a total of eight members. They are the body in the simplest terms I can describe it, that represent the state and the ongoing interest of not only the care and preservation of the Capitol, but also sets policy internally for how the Capitol is to be used. So their mission is, in its simplest form, and it takes many forms;

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 684
and Veterans Affairs
March 2, 2005
Page 26

it is essentially the care and preservation of the building and site proper, paralleled with what we use the building for in terms of ongoing activity of state government, and, in fact, outside entities who come in and meet the requirements to sponsor an event within the building.

SENATOR BROWN: This question is a little bit off the topic of LB 684, but could you give us a brief update on the renovations of the Capitol? Where we are in the time line, and also financially, where we are?

BOB RIPLEY: Sure. We are in the process, and I presume you mean the exterior masonry work that is ongoing. We have many projects, as well on going, within the building itself, and that's all part of an overall, long-range master plan document that we have, that the commission approves each year, not only the funding and the scope of the work for the exterior masonry work, but also the work that we've been able to produce involving 901 funding, which is a separate fund of money for largely interior work apart from the exterior masonry project. The masonry project is, as you may have heard in the Rotunda, just starting up this week. We have workmen beginning their work where they left off last fall, beginning on the east side of the Capitol at the base of the tower. We will be working in that area, as well as the north side of the Capitol tower yet this construction season. We've all but finished the west side, and we will have then, of course, the south side to complete, that entire area. The base of the building then, the remaining portions of the building to be done probably best described by the overall project manager, Mike Rindone, who works in our office, as well, but we are in the process of fazing the remainder of the work. We have work to do yet in the interior courtyards of the Capitol, and we have work to do, as well, on the east and the west entrance areas of the Capitol. The immediate future is completing the base of the building, and then moving on to the east and west entrances. A portion of the project, as well, will be addressing the issue of the roof of the building, and just this month we had a meeting with our consultants from Lincoln and Chicago, as well as the contractor who's based out of a town adjacent to Chicago on the south of the city. And we are working on updating the budget for the project. Because of the economic slowdown of the last few years, necessarily we

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military
and Veterans Affairs
March 2, 2005
Page 27

LB 684

needed to slowdown the expenditures on the masonry project. And they have been at about half the level of funding that were originally proposed per year. Since the project was initially started in 1999, we anticipated it would be an eight-year project. Slowing down the amount of money, therefore slows down the work, and we spread the project out over a longer period of time. That is not advantageous for a number of reasons. Primarily, because it will take longer to get the work done, and number two, as a result of that, it will cost us, the state, more to complete the project, ultimately. So we are now evaluating, and I regret to say I don't have those figures available for you at the present time, evaluating, should we be able to get back up to a level of funding in the coming years that we started with in the project, how we really could shorten the length of the project. We have projected the project at the current rate, to perhaps go out to 2014, something like that. We believe we can shorten that; that is roughly another eight or nine years. We feel we can shorten that time line by 40, perhaps 50 percent, in terms of time; I would say 40 percent, to be conservative. So we might be able to finish it by 2010 or 2011. We're working on that, because we think it is, first of all, the most efficient use of time. It's the most efficient use of the contract and the forces we have on the site, to keep the talented people we have now on the job within a window that they will remain here, as opposed to eight years out, where we may lose them, and guarantee you it will be much less expensive for the state, long term, to shorten the project. We'll spend less money in the total project expense. I will say, despite the fact we've had a slowdown in funding, I cannot thank the Legislature, as well as the Governors who've supported this project, because to have stopped it would have been a crippling issue and would have truly set this project back a great distance in terms of talent and dollars. So the ongoing support of the Legislature has been critical to, I think, the most significant project that we've undertaken during my roughly 25-year tenure working on the Capitol. The interior work has been wonderful. That exterior envelope must be well-maintained and preserved for the viability of the building for years into the future. So this is really just a critical issue with regard to building preservation.

SENATOR BROWN: Any other questions? Senator Schimek.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 684
and Veterans Affairs
March 2, 2005
Page 28

SENATOR SCHIMEK: Yes, thank you. I don't usually come back to the chair when my bill's up, but I really did want to know about how critical getting this fund established is. You did say that DAS can do this on a temporary basis, and I don't know what temporary is?

BOB RIPLEY: Yeah. Temporary is meant to be to get us by for a period of months, and as an agency we've only existed since July 1 of last year, so we are roughly eight months old. The temporary issue is meant to be temporary in terms of months, not in terms of ongoing years. The revolving fund authority allows us to accept money and put money into a fund that we can then turn around, with spending authority granted, to spend again to do ongoing repair and maintenance in the building. And it's a way of agencies reimbursing us for the expenses we occur on their behalf, and then we can use that money for other improvements with regard to agencies, our client agencies, in the building. So I consider it a very timely issue, and one that, if at all possible, to be approved this year through this bill would be the preferred method of moving.

SENATOR SCHIMEK: I have one other question, and it involves the members of the commission, which if I just read my own bill, I'd have read the old parts of the statute and have my memory refreshed. But we did, at one time, have the Chief Justice on the commission, it was the bill last year, wasn't it, Senator Beutler's bill that changed that to the State Court Administrator. And we also allowed Governors and maybe others to send their representatives?

BOB RIPLEY: There are no designated representatives to the body.

SENATOR SCHIMEK: Right. Not now.

BOB RIPLEY: There are only those who are specifically on it.

SENATOR SCHIMEK: But weren't there, at one point?

BOB RIPLEY: I don't believe so.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 684, 701
and Veterans Affairs
March 2, 2005
Page 29

SENATOR SCHIMEK: Okay, well then I must have dreamed all of that.

BOB RIPLEY: You're correct; a year ago the bill was amended. The Chief Justice was, at one point, on the body. He felt it appropriate to recuse himself or to step away from membership, and to have another representative of the court, because of potential legal conflicts of interest. And so, honoring his knowledge of the law, that was simply done for that benefit.

SENATOR SCHIMEK: All right. Thank you very much.

BOB RIPLEY: Sure.

SENATOR BROWN: Any further questions?

SENATOR BURLING: I was going to ask what you did, so?

SENATOR SCHIMEK: Oh, okay. Thank you.

BOB RIPLEY: Okay. Very well.

SENATOR BROWN: Thank you. Any further testimony in support of LB 684? Any testimony in opposition? Any neutral testimony? That will close the hearing on LB 684. And we will return the gavel to the Chairman.

LB 701

SENATOR SCHIMEK: Welcome, Senator Synowiecki.

SENATOR SYNOWIECKI: Hi, Senator Schimek.

SENATOR SCHIMEK: We're glad to see you with us again today.

SENATOR SYNOWIECKI: (Exhibits 1 and 2) Senator Schimek and members of the Government Committee, I am John Synowiecki, representing District 7 in Omaha. Today I bring LB 701 for your consideration, a bill to create the Department of Personnel. LB 701 would remove the Personnel Division from the Department of Administrative Services and restore the Department of Personnel. LB 701 would also remove the chief

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 30

negotiator in the Employee Relations Division from the state employee grievance process, revitalize the State Personnel Board, and introduce due process provisions to the employee grievance procedure. This issue is very complex, and more work is needed to refine LB 701. I have provided committee members with a section by section summary of the bill. I truly believe that as legislators we should continue to examine Nebraska employee due process procedures to ensure that state employees are getting treated fairly and equitably. Mr. Bill Pserros, a concerned and well-informed constituent, has assisted my office extensively in the drafting of LB 701. Mr. Pserros has been in contact with our office for several years regarding grievances he filed against the Department of Correctional Services and the Nebraska Department of Administrative Services. He has worked diligently to develop the technical aspects of this legislation and is capable of addressing any specific questions you may have relative to the purpose and history of LB 701. I want to thank you, Senator Schimek, and each of the members of the Government Committee for your full consideration of LB 701.

SENATOR SCHIMEK: Thank you, Senator Synowiecki. Are there questions? In what way, Senator Synowiecki, how would this be an improvement over the way it's done now?

SENATOR SYNOWIECKI: Well, Senator, Bill Pserros can speak for his specific issues that he has relative to current formation of the Department of Personnel. The Department of Personnel was a separate and distinct department under state government, and I think Bill will tell you, in a special legislative session it was encompassed, if you will, or enveloped into the Department of Administrative Services. And this brought about certain inequities relative to the position of the chief negotiator on the union contract in his or her delving into the grievance procedure of state employees. And again, Mr. Pserros can fully explain, and much better than I can. We've been working with Mr. Pserros for, well, about three years now. He's been keeping me comprised of his ongoing both court battles and grievance procedures with the Department of Corrections, and he is now seeking remedy through LB 701 to reestablish the Department of Personnel as it previously was.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 31

SENATOR SCHIMEK: Thank you. Seeing no further questions,
we thank you.

SENATOR SYNOWIECKI: Senator Schimek, I need to waive
closing. I wish I did not have to but community corrections
is being discussed in Appropriations Committee.

SENATOR SCHIMEK: Well, and I don't think there's that many
people here testifying today, so that will be fine. Thank
you very much.

SENATOR SYNOWIECKI: Thank you, Senator. Thank you for your
attention.

SENATOR SCHIMEK: You're welcome. We will now take
proponents of the bill.

POLIDOROS PSERROS: (Exhibits 3-7) This is a written
statement, preliminary statement...

SENATOR SCHIMEK: Why don't you just give it to the page,
and then you can sit down and you can tell us what you're
giving us; how would that be?

POLIDOROS PSERROS: That would be fine.

SENATOR SCHIMEK: We need you speaking into the sound system.
Do you need copies of that, of each one of those?

POLIDOROS PSERROS: I have copies. I know them; thank you.

SENATOR SCHIMEK: Okay. All right.

POLIDOROS PSERROS: Senator Schimek, Senator Pahls, Senator
Burling, Senator Wehrbein is missing, Senator Mines was
here, Senator Langemeier, Senator Fischer, my name is
Polidoros Pserros, P-o-l-i-d-o-r-o-s, the middle initial
is C, the last name is spelled P-s-e-r-r-o-s.

SENATOR SCHIMEK: Okay. Now, I just looked at this. I'm
not going to be able to let you read this entire thing.

POLIDOROS PSERROS: Okay.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 32

SENATOR SCHIMEK: I would ask that you read what part of it you have to, and try to put the rest in your own words.

POLIDOROS PSERROS: Okay.

SENATOR SCHIMEK: I'm sorry I didn't say anything about that earlier, but I didn't see this coming.

POLIDOROS PSERROS: Okay.

SENATOR SCHIMEK: Okay. Thank you.

POLIDOROS PSERROS: Okay. At work I'm called Bill. I'm the prison librarian at the Omaha Correctional Center and I'm asking for your support for LB 701, the State Personnel System Act, introduced by Senator Synowiecki. As he indicated, the bill reverses a 12-year-old law, LB 14, Third Special Session 1992. It was advertised as a cost-saving measure, but I thought it was...I think it's bad law at its inception, and I don't think it was in the best interest of the state of Nebraska nor its employees, and LB 701 seeks to remedy that. As Senator Synowiecki had indicated, this bill reverses LB 14. It isn't meant to go back to 1967 when the bill was a first...when the State Personnel was established. This issue focuses on state grievances by state employees. I've been a free lance reporter, I've worked with the department from 1973 to 1981, I have been the state...the correctional librarian at the Omaha Correctional Center since 1988. As Senator Synowiecki had said, I've been three times placed on six months disciplinary probation, twice filed grievances, one of which was submitted on a petition for review at my own expense and without a lawyer in Lancaster County District Court. The case was twice argued, I twice appealed the adverse orders to the Nebraska Court of Appeals, and twice petitioned for further review to the Nebraska Supreme Court, and was rejected twice. You should also know that I have been called a very disgruntled and unhappy individual by Attorney General Jon Bruning in the state's brief in support of a successful motion for summary affirmation. In the last five years, I've had a lot of bad days; LB 701 is better for it. I wanted to read this because I didn't want to make any mistakes because this is serious, this is very serious. It impacts DCS prison employees, it impacts state employees, generally. If at

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 33

some point...I have two volumes of documents where you could follow my line of reasoning at some point in the future, at executive session. In this group of material you should have an index of those documents. They could serve as footnotes, and you could review my line of thinking. You can look at the documents. It started, this bill started initially in January 2003, I submitted documents to Senator Synowiecki and Governor Johanns, and asked for remedial legislation. In March of 2004, I wrote letters and sent documents to Senator Synowiecki; Senator Brashear, who was then committee chair; Senator Landis; Senator Schimek, as chair of this committee; and Governor Johanns. I told all of you that I wanted to implement remedial legislation to restore the Department of Personnel.

SENATOR SCHIMEK: Now, I'm going to interrupt you for a minute, because you have prepared a very nice document here for us that we can read.

POLIDOROS PSERROS: Okay.

SENATOR SCHIMEK: And I'm leafing through it, and I'm knowing you're doing the history here.

POLIDOROS PSERROS: Okay.

SENATOR SCHIMEK: I guess what I'd like for you to get to in your remarks to us are why you think that the system needs to be changed and how you think that would have helped you in your particular situation.

POLIDOROS PSERROS: Okay.

SENATOR SCHIMEK: And what you think the bill really does.

POLIDOROS PSERROS: Okay.

SENATOR SCHIMEK: Okay?

POLIDOROS PSERROS: You could read about LB 14 and...

SENATOR SCHIMEK: And we will read this, I want you to know that.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 34

POLIDOROS PSERROS: All right. After LB 14, Third Special Session 1992 was passed, the power position between the chief negotiator slot and the Department of Personnel changed. In the early part of collective bargaining, the Department of Personnel was up here and the chief negotiator position was here. Because the law was written the way it was, the Department of Personnel director assumed the responsibilities of the state, of the chief negotiator. Okay. After the negotiation of the contract, after LB 14, this relationship changed. The chief negotiator then became the Department of Administrative Services, and personnel services took a backseat. Here was the chief negotiator who was a direct appointee of the Governor, he had more clout, and here was the Department of Personnel director who was now appointed by the Department of Administrative Services; he had less clout. And then what happened? In the contract, the contract provisions for 1995 and 1997 changed. An interim period was set up, and it was a mini hearing. And what happened is during that process, the chief negotiator position, who in the beginning was the DAS director, but since that time has become a separate entity, a separate person, took over the process. And he took care of mini hearing officers, he did discovery, he did all the things that a hearing officer is supposed to do. But the law, from the very beginning they didn't touch this law. The law says that you cannot do grievances if you negotiated that grievance. Well, by definition, the chief negotiator, you know, he negotiated the grievance, that particular grievance, and he's handling this. So plain reading of the law says he's not supposed to be involved. Okay. So what happened? He accumulated power. In the legislative history of the bill, Senator Chambers opposed it and the person that Senator Lindsay, who was then the chair and a member of the Government Committee, was a proponent of it. And at one point during the discussion on the floor, the bill sailed through committee, and on the floor the Governor or Senator Chambers said, what about employee grievances? And Senator Lindsay said, well, this is streamlining government, this is going to make it more efficient. And so what they decided, what he said was, this wouldn't be impacted, but it has impacted. In court documents that I submitted before the Court of Appeals, the whole, you know, the law promises state personnel, but in reality 83 percent during the fixed period of time that my

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military
and Veterans Affairs
March 2, 2005
Page 35

LB 701

affidavit took care of, were not sent through State Personnel Board but went through the chief negotiator. In my experiences, my first grievance procedure that went through state personnel, went through the hearing officer was the retired personnel administrator from the Department of Correctional Services. The second time I went through, the chief negotiator handled my hearing, he did the discovery and he handled the decision. You know, in this body, you'll be able to see documents, you'll be able to see them numbered and if you want to look at each individual document, you can. Let's take care of the budget issue because there's a fiscal note. The bill that was advertising before committee, that came through the committee that you may recall, you may not, it was a cost-saving measure. Okay, we're going to save \$50,000 to \$100,000, that's what you were told, that's what was told on the floor of the Legislature. Well, the last budget of the Employee Relations Division, in 1992-93, was \$100,000. The first budget of the Employee Relations Division under DAS became \$200,000. So it nearly doubled, it swallowed up the proposed savings, and it increased. But what happened with the employee grievances? What happened with employee grievances is the department or the chief negotiator took control at a very interim stage. In a second stage in the appendixes of a contract, which you have copies of, under Nebraska law, APA is where rules are supposed to be promulgated, that's the process, through the Secretary of State. But after 1992, the '93-95 contract, and since, very important rules began being implemented by contract, instead of promulgated through the Secretary of State. Last summer, spring and summer, we had problems at Tecumseh State Correctional Institute; Senator Wehrbein probably has constituents that work there. One of the rules was, mandatory double, in other words, state prison employees were required to stay two shifts. Okay. That was from a promulgated rule, which the law says we have to do. They negotiated by contract, and they negotiated in a contract provision that is unlawful. In other words, when they devised the bargaining units, they were supposed to be horizontal; they were supposed to cross departmental lines; they were supposed to go, and I mentioned it in there, Corrections were there, DAS security officers, Health and Human Service security officers were supposed to be negotiating these provisions, not individual departments.

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 36

So what they did was, they started implementing things. And this was the main thing, mandatory double. Okay. It didn't get used, I don't remember it ever being used at the Omaha Correctional Center in my career. If they had a problem, they would ask people to work second shifts. We had some people call in sick; do you want to work? People worked. But now it's implemented on a daily basis at least two or three times a week, normally.

SENATOR SCHIMEK: Mr. Pserros, I'm going to stop you, because I think we are getting the drift of where you're going here, and I would like to have the committee have some opportunities to ask you questions. But I'm not going to stop you without giving you one more minute to finish up. Yes.

POLIDOROS PSERROS: Okay, one minute you got. When the personnel board got out of the picture, respect for the personnel board got out of the picture; respect for state employees got out of the picture. And as I mentioned here about rules that the department implemented against us, starting...

SENATOR SCHIMEK: Maybe the date doesn't matter, but...

POLIDOROS PSERROS: Yeah. When this talks about administrative relations, these are nonpromulgated rules that are imposed upon us. One, is performance counseling where whatever management puts on a piece of paper becomes can be used as evidence and was used against me in a disciplinary hearing. The state classified personnel rule on performance evaluations says one thing, but the department performance evaluations is completely different. The state rule says you can file mitigating or opposing views. There is no mention that in the DCS rule. Employee discipline. The rule that was promulgated to the Secretary of State says one thing, and the rule promulgated that they show us, says something different. Okay, now just ask your questions.

SENATOR SCHIMEK: Yes. Are there questions of Mr. Pserros? I have a question, and that is, why aren't there any other people here with you today?

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 37

POLIDOROS PSERROS: You know, when you file a lawsuit and you say I've been writing these documents for a long time, I've been at it for a long time, I'm out there, okay? For people to come forward, they can't come forward because they would be out there. The union, this is a...once you, as a union member and I've talked to the union, they're negotiating a contract that's going to be not much different than the contract, the documents that I've showed you, that I'll show you. But they have ethical rules that says they can't be a proponent of something that is driving to invalidate them, they can't. It sort of chokes the process, but they can't. (Recorder malfunction...Some testimony lost.)

SENATOR SCHIMEK: I just wanted to clarify that.

POLIDOROS PSERROS: Yeah. As I understand it, they told me that on December 6, and I understood that completely. One of the things is, is contracts, promulgated rules, you know, those things must follow the law. And that's basically, the contract as it is written, as it evolved, does not follow the law.

SENATOR SCHIMEK: Are there any other questions? Seeing none, thank you very much for being with us today, and thank you for all the nighttime reading material here that you left us.

POLIDOROS PSERROS: Thank you. I'm sorry, I wish this could be answered easily and quickly, but if you look at the exhibits, even if you just look at the exhibits and you don't look at anything else, you'll see that the law needs to be changed because the contracts, as they appear, violate the law.

SENATOR SCHIMEK: Thank you very much for being with us.

POLIDOROS PSERROS: Thank you.

SENATOR SCHIMEK: Are there any other proponents of the bill? Are there any opponents of the bill? Are there any who wish to testify in a neutral capacity? Seeing none, Senator Synowiecki has waived closing, and that does conclude the hearing on LB 701. It concludes the hearings

Transcript Prepared by the Clerk of the Legislature
Transcriber's Office

Committee on Government, Military LB 701
and Veterans Affairs
March 2, 2005
Page 38

for the day, and it concludes the hearings for the year. So
thank you all for being with us.